

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 15-20625

v.

Honorable John Corbett O'Meara

KIMBERLY KUSHNER,

Defendant.

**ORDER DENYING DEFENDANT'S FEBRUARY 2, 2017
MOTION TO AMEND SENTENCING ORDER**

This matter came before the court on defendant Kimberly Kushner's *pro se* motion to amend her May 17, 2016 sentencing order. The government filed a response March 15, 2017; and Kushner filed a letter in reply April 3, 2017.¹ No oral argument was heard.

This court sentenced defendant Kushner to the custody of the Bureau of Prisons for a term of 33 months and ordered her to pay \$1,224,043.00 in restitution following her embezzlement conviction. Final judgment was entered May 19, 2016. Kushner requested and received two extensions of time to report to prison and entered federal custody August 14, 2016.

¹The court also received a letter from Kushner's mother March 20, 2017.

After serving less than six months of her 33-month sentence, Kushner filed this motion requesting the court to “amend her sentencing order to split her sentence and allow 16 months or court ordered amount to be served confined to home.” Def.’s mot. at 1.

In her reply brief Kushner acknowledges that “there are statutes in place preventing the court from ruling favorably to my motion.” Def.’s reply at 1. Indeed, reductions and other modifications of sentences and imprisonment are governed by 18 U.S.C. § 3582(c). The three circumstances under which such reductions and modifications may granted are as follows: 1) upon a motion by the Director of the Bureau of Prisons, 2) upon motion of the government, and 3) if there has been a subsequent change to the sentencing guidelines that would indicate a lower sentencing range for the defendant. None of those applies in this instance, and the court must deny the motion.

ORDER

It is hereby **ORDERED** that defendant Kushner’s February 2, 2017 motion to amend sentencing order is **DENIED**.

s/John Corbett O'Meara
United States District Judge

Date: April 10, 2017

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, April 10, 2017, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager